



How to Finish Your Minnesota Divorce without Children: *when your spouse does not Answer within 30 days*

Need one-on-one help?

Some courts have designated staff or volunteer attorney programs to help explain forms and court procedures. To see if your Minnesota court has this service, go to www.mncourts.gov/selfhelp.

What is an *Answer*? What is "*default*"?

If your spouse disagrees with your *Petition*, he/she should serve you with a paper called *Answer and Counter-Petition*. If you do not get an *Answer* within 30 days after serving your *Petition* on your spouse, your spouse is in "**default**."

Before you continue, answer these questions for yourself:

Q: Did your spouse serve you with a *Motion*, a response, or other pleading besides a written *Answer*?

Q: Did your spouse come to a court-scheduled hearing or conference?

Q: Did your spouse send you a letter or other informal paper saying he/she disagrees with your requests in the divorce?

A: If you answered "**yes**" to any question, you may need to give your spouse another form saying that he or she is in "default" and that you plan to finish the divorce. See *MN Rules of Court, General Rules of Practice- District Court Rule 306* at www.mncourts.gov/rules. You may want to ask a lawyer for help understanding and following this rule. You can download the *Notice of Intent to Proceed to Judgment* form at www.mncourts.gov/forms and click the link to the "**Divorce/Dissolution**" category. Find **Form #DIV812** in the list of forms in the "**Petition for Dissolution without Children Packet**."

Follow these Steps when Spouse doesn't answer within 30 days:

1. Check the forms I-CAN!® printed for you.

You should have these forms:

- *Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree*
- *Default Scheduling Request*
- *Affidavit of Non-Military Service*
- *Affidavit of Default*
- *Affidavit of Personal Service* (used at **Step 9** below)
- *Certificate of Dissolution*

2. Make sure everything on your forms is correct.

Carefully read the *Findings of Fact* document with all of your answers. If you need to change something, go back to I-CAN! to add missing information or fix mistakes. Then, print your forms again. If the change is small you may use white-out correction fluid and print neatly to correct the information on the forms. If any information has changed since you did your *Petition*, you should put the current information in the *Findings of Fact*. For example, if you moved, your new address should be in the *Findings of Fact*. If a bank account was listed in the *Petition* but you have now closed it, on the *Findings of Fact* paragraph about accounts write "Bank account closed."

Also, make sure your "requests" in the *Petition* and *Findings of Fact* match. You cannot change your requests if your case is a "default." For example, if you asked for each of you to be awarded your own retirement accounts in the *Petition*, you cannot ask in the *Findings of Fact* to receive part of your spouse's retirement account. (**NOTE:** Your "requests" are in the section of the forms that starts with BASED UPON THE ABOVE INFORMATION.) If you have questions about this, see the section at the top of these instructions called **Need one-on-one help?**

IMPORTANT UPDATE: Please read through your *Findings of Fact*, *Conclusions of Law*, *Order for Judgment*, and *Judgment and Decree* (and any attachments, if applicable). Look for any partial account numbers (these could be financial account numbers, retirement, or life insurance account numbers) and black them out as explained in the "**How to Start a Divorce without Children in Minnesota**" instructions that you previously printed from I-CAN! (you can print them again if necessary).

3. Figure out the "default" date.

- If your *Summons* and *Petition* were hand-delivered to your spouse: Look at your copy of the ***Affidavit of Personal Service***. Find the date the papers were given to your spouse. Starting with the next day, count out 30 days. Your spouse is in default after the 30 days.
- If your spouse signed an *Admission of Service*: Look at your copy of the ***Admission of Service***. Find the date your spouse signed the *Admission of Service*. Starting with the next day, count out 30 days. Your spouse is in default after the 30 days.
- If the judge ordered service by mail: Look at your copy of the ***Affidavit of Service by Mail***. Find the date the papers were mailed. Starting with the next day, count out 51 days. Your spouse is in default after the 51 days.
- If the judge ordered service by publication: Look at your copy of the ***Affidavit of Publication***. The *Summons* was published on three (3) different dates. Find the **earliest** date, and then starting on the next day, count out 51 days. Your spouse is in default after the 51 days.

4. Sign the forms (after the "default" date has passed.)

Two of your forms must be signed in front of a Notary or deputy court administrator. You will be asked to show your photo I.D., like a driver's license or Minnesota I.D. card:

- ☐ ***Affidavit of Non-Military Service*** (You cannot sign this if your spouse is on active-duty in the military. Ask a lawyer for help with your case.)
- ☐ ***Affidavit of Default***

Another form that you sign, but do not need to have notarized, is called:

- ☐ ***Default Scheduling Request***

5. Make copies for your records.

You need:

- 1 copy of the *Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree*
- 1 copy of the *Default Scheduling Request*
- 1 copy of the *Affidavit of Non-Military Service*
- 1 copy of the *Affidavit of Default*
- 1 copy of the *Certificate of Dissolution*

6. File forms with the court.

You must wait 20 days after the default date before you file your papers. After the 20 days, go to the Courthouse and **FILE**:

- Original *Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree*
- Original *Default Scheduling Request*
- Original *Affidavit of Non-Military Service*
- Original *Affidavit of Default*
- Original *Certificate of Dissolution* (*this is optional)

*The *Certificate of Dissolution* is a form that is signed by the judge that can be used to prove that you are divorced and can also be used to provide evidence of a name change. Some people do not like providing an entire copy of their divorce decree as proof of a name change because it contains financial information that is not necessary to prove evidence of a divorce or to change a name.

7. Wait to hear from the court.

Court hearings are generally not required for divorces without children. Once you file all of the required forms a judge will review your *Findings of Fact* and be sure your spouse was properly served. If the judge has any questions or concerns, then you may be notified of a hearing date for the judge to ask you questions.

You are not divorced until the judge signs your divorce decree and the court administrator “enters” the decree. The court will send you a letter when your divorce is final.

8. Get a copy of your divorce decree.

When you know that your divorce is final, you may want to get a “**certified**” copy of your divorce *Decree* from the court's records department as well as a “**certified**” copy of your *Certificate of Dissolution*. There is a fee for the copies. Keep them safe with your other important papers.

9. Serve a copy of the divorce decree on your spouse.

One of the last paragraphs in your divorce *Decree* orders you to serve your spouse, the Respondent, with a copy of the *Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree*. Your divorce *Decree* tells you the way you must serve your spouse. The copy served on your spouse must have the signature of the Judge, and the stamp of the Court Administrator showing the date judgment was entered. The copy for your spouse does not have to be a certified copy. Someone other than you must serve your spouse and fill out the *Affidavit of Service* form that I-CAN! printed for you. This step is necessary because it is part of the court order. Also, if you need to ask the court later to enforce an order in your divorce *Decree*, you need to show that your spouse

knew about the order and disobeyed it for no good reason (called “contempt.”) Serving your spouse with the final divorce *Decree* helps you prove that your spouse knew about the order.

10. Other things you might have to do to after your divorce is final:

- **Name change:** If you changed your name in the divorce, you must change your name on your driver’s license or I.D. card and Social Security card. You can get a certified copy of the *Certificate of Dissolution* to use as proof of your name change.
- **Pension or Benefits:** If the court awarded pension or medical benefits to you or your spouse, you may need to send a copy of the divorce *Decree* to the company or provider.
- **Real Estate:** If you or your spouse own real estate, you must file a certified copy of the *Decree* (or a shorter document called a *Summary Real Estate Disposition Judgment*) in the Office of the County Recorder or Registrar of Titles (for torrens property) in the county where the property is located.
- **Public Assistance:** If you or your spouse receive or have applied for public assistance, give a copy of the *Decree* to the County Support and Collections office. Include the case worker’s name on a cover letter, and state in the letter that the papers are being served on County Support and Collections because one of the parties in the divorce receives public assistance.
- **Income withholding for Support:** If the *Decree* orders you or your spouse to pay spousal maintenance through income-withholding, contact your County Support and Collections office to start getting payments.